



# AUSTIN POLICE DEPARTMENT

## TRAINING BULLETIN

**Date: June 28, 2019**

### **COA: Obstruction Ordinance**

***The previous Sit and Lie ordinance has been repealed and replaced with Obstruction within the area of the Downtown Austin Community Court.***

***This ordinance takes effect on July 1, 2019***

#### **Obstruction:**

On June 21, 2019, City Council amended the ordinance known as the “no sit, no lie” ordinance, which is applicable to a specific area of downtown described in the ordinance to, instead, prohibit “obstruction” within that same area. The revised ordinance now prohibits a person from obstructing the right-of-way between the street and the property line or the building, **and** the person is materially endangering the health or safety of another person or of themselves, **or** they are intentionally, knowingly, or recklessly making impassable or impeding the use of a public area, making use of the area unreasonably inconvenient or hazardous.

Thus, for an offense to occur, the subject must be both **(1)** obstructing **and** either be **(2i)** endangering the health or safety of another person or themselves, or be **(2ii)** intentionally, knowingly, or recklessly making impassable or impeding the use of a public area.

Like the “no sit, no lie” ordinance, the “Obstruction” ordinance requires that an officer give a subject notice that he is violating the “Obstruction” ordinance, and the officer must also now give the subject a reasonable amount of time to cease the violating behavior prior to taking enforcement action. What is a reasonable amount of time will depend upon the circumstances. If the violation is an obstruction, more time can be given than if a person is endangering themselves or others. When a subject fails to cease the violating behavior after a reasonable amount of time and enforcement action is taken, the officer must document the time of the notice and the amount of time that elapsed between the notice and enforcement action.

There will be circumstances in which the officer’s notice to the subject and the officer’s enforcement action must be simultaneous or almost simultaneous due to the dangerous conditions the subject has created. For example, if a person, structure or bulky item renders a sidewalk impassable or impedes a pedestrian’s reasonable use of the sidewalk, in which the pedestrian is forced to walk into a busy street to continue on, it will be reasonable for the officer to give the subject notice that the officer intends to take enforcement action, and then immediately do so. The officer’s actions may include removing the obstruction.

The language of the new ordinance is as follows:

**§ 9-4-14 OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA PROHIBITED**

(A) **DISABILITY** means having a physical or mental impairment which substantially limits one or more major life activities.

(1) **PHYSICAL OR MENTAL IMPAIRMENT** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) **MAJOR LIFE ACTIVITIES** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing, and working.

(B) The council finds that the City has a compelling interest in:

- (1) encouraging and preserving a vital, pedestrian-friendly urban core;
- (2) promoting tourism and business in the central business district;
- (3) preserving the quality of urban life; and
- (4) encouraging businesses and neighborhoods in the central city where walking is a realistic alternative to vehicles that use fossil fuels.

(C) The council finds that in areas with high pedestrian traffic and a high incidence of petty crime related to public disorder, individuals obstructing the pedestrian right-of-way:

- (1) are disruptive to residents, businesses, and customers;
- (2) discourage, block, or inhibit the free passage of pedestrians; and
- (3) contribute to the loss of access to and enjoyment of public places.

(D) This section applies in the following area, including the streets and pedestrian rights-of-way that bound the area, but does not apply on the campus of the University of Texas:

- (1) beginning at the intersection of 29th Street (West) and Lamar Boulevard (North);
- (2) south on Lamar Boulevard (North) to the north shore of Lady Bird Lake;
- (3) east along the north shore of Lady Bird Lake to the point directly south of the curve at the intersection of Jesse E. Segovia Street and Robert Martinez, Jr. Street;
- (4) north to the curve at the intersection of Jesse E. Segovia Street and Robert Martinez, Jr. Street;
- (5) west along Jesse E. Segovia Street to the intersection of Chicon Street;
- (6) north on Chicon Street to the intersection of Seventh Street (East);
- (7) west on Seventh Street (East) to the IH-35 East Frontage Road;
- (8) north on the IH-35 East Frontage Road to the intersection of Martin Luther King, Jr. Boulevard;
- (9) west on Martin Luther King, Jr. Boulevard to the intersection of Guadalupe Street;
- (10) north on Guadalupe Street to the intersection of 29th Street (West); and

(11) northwest on 29th Street (West) to the intersection of Lamar Boulevard (North), the place of beginning.

(E) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section and having been given a reasonable opportunity by a law enforcement officer to correct the violating conduct:

(1) the person is obstructing the right-of-way between the roadway and the abutting property line or structure, or an object placed in that area; and

(2) the person is:

(i) materially endangering the health or safety of another person or of themselves; or

(ii) intentionally, knowingly, or recklessly rendering impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous.

(G) This section does not apply to a person who:

(1) is obstructing the right-of-way because of a medical emergency;

(2) operates or patronizes a commercial establishment that conducts business on the sidewalk;

(3) participates in or views a parade, festival, performance, rally, demonstration, or similar event;

(4) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;

(5) sits within a bus stop zone while waiting for public or private transportation; or

(6) is waiting in a line for goods, services, or a public event.

(H) It is an affirmative defense to prosecution if a person is obstructing the right-of-way as the result of a physical manifestation of a disability, not limited to visual observation.